

SIXTY-NINTH DAY

FRIDAY, MAY 13, 2005

PROCEEDINGS

The Senate met at 9:30 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Janek.

The President announced that a quorum of the Senate was present.

The Reverend Barry Jeffries, Central Baptist Church, Livingston, offered the invocation as follows:

Our Father in heaven, every good and perfect gift comes down from You, the one who watches over us and provides for us. We ask You today for the good and perfect gift of wisdom. The decisions made here affect the lives not only of these Senators but the lives of millions of Texans. Without Your wisdom, we will be prone to make mistakes that adversely affect those lives. So grant, we pray, Your wisdom to the leaders and lawmakers of Texas so that which is done in this Chamber is the very best for those You have placed under their care. We ask this in the name of the one who provides us access to You. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVE OF ABSENCE

On motion of Senator Whitmire, Senator Janek was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 12

On motion of Senator Zaffirini, Senator West will be shown as Co-author of **SB 12**.

CO-SPONSOR OF HOUSE BILL 129

On motion of Senator Eltife, Senator Zaffirini will be shown as Co-sponsor of **HB 129**.

CO-SPONSORS OF HOUSE BILL 1316

On motion of Senator Deuell, Senators Van de Putte and Zaffirini will be shown as Co-sponsors of **HB 1316**.

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

SB 99, SB 272, SB 350, SB 454, SB 552, SB 1000, SB 1309, SB 1464, SB 1708.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 13, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 51, Relating to the punishment prescribed for and conditions of community supervision imposed on certain persons who commit intoxication offenses.

HB 211, Relating to the effect that certain orders relating to family violence and certain decisions regarding military service have on residential leases.

HB 251, Relating to the release of certain information regarding a workers' compensation claim.

HB 295, Relating to the removal of a member of a junior college district board of trustees for failure to attend board meetings.

HB 533, Relating to restrictions on the automatic renewal of contracts.

HB 867, Relating to the registration and supervision of sex offenders; providing penalties.

HB 1037, Relating to the prosecution of the offense of unlawfully carrying a handgun, illegal knife, or club.

HB 1111, Relating to admission to open-enrollment charter schools that specialize in performing arts.

HB 1232, Relating to the payment of certain expenses of a public project financed by certificates of obligation.

HB 1270, Relating to the qualifications and duties of a deputy voter registrar.

HB 1330, Relating to the creation of a dispute resolution program for state building construction contracts.

HB 1462, Relating to the referral by the Texas Water Development Board of certain persons to another state agency, office, or division for investigation or enforcement action.

HB 1763, Relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.

HB 1765, Relating to the creation of programs and funding for emerging technology industries.

HB 1795, Relating to the creation of health savings accounts for certain individuals eligible to participate in the insurance coverage provided under the Texas Employees Group Benefits Act and their dependents.

HB 1823, Relating to the rights of a purchaser under an executory contract for conveyance of real property.

HB 1826, Relating to the use of school district resources for the maintenance of real property not owned or leased by the district.

HB 1854, Relating to requiring debt collectors to provide a copy of a dishonored check to certain consumers; providing a civil penalty.

HB 2026, Relating to the taking and possession of certain wildlife or eggs, including requirements related to taxidermy and tanning and to harmful aquatic plants; imposing a penalty.

HB 2099, Relating to investigations of reports of child abuse and neglect.

HB 2139, Relating to certain agreements by the Texas Department of Transportation involving pass-through tolls.

HB 2201, Relating to implementing a clean coal project in this state.

HB 2233, Relating to state and certain local fiscal matters.

HB 2330, Relating to the admission of undergraduate students to general academic teaching institutions and to practices of school districts that concern the admissions process to institutions of higher education.

HB 2339, Relating to the provision of mail ballots to overseas voters and to conforming adjustments to related dates, deadlines, and procedures.

HB 2420, Relating to the allocation of federal funds directed to be used to support graduate medical education in connection with the state Medicaid program.

HB 2492, Relating to the authority of certain persons to bring suit to require an appraisal district or appraisal review board to comply with applicable law.

HB 2630, Relating to procedures regarding the removal and storage of vehicles.

HB 2639, Relating to the powers and duties of the Tarrant Regional Water District.

HB 2702, Relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of rail and highway transportation facilities in this state.

HB 2716, Relating to equal employment opportunity reports.

HB 2842, Relating to the provision of false information to an independent public accounting firm by a public interest entity; providing a criminal penalty.

HB 2866, Relating to the right of certain municipalities to maintain local control over wages, hours, and other terms and conditions of employment.

HB 2876, Relating to certificates of public convenience and necessity for water service and sewer service.

HB 2933, Relating to standards of conduct for and conflicts of interest of state officers and employees.

HB 2941, Relating to compensation of insurance agents.

HB 2945, Relating to the predicted retirement of and participation in the optional retirement program by certain employees of institutions of higher education.

HB 2959, Relating to the use of federal child care and development block grant funds by local workforce development boards.

HB 2984, Relating to the composition of and use of money in the oil-field cleanup fund.

HB 2988, Relating to waiver of sovereign immunity.

HB 3047, Relating to emergency communication district participation in state travel services contracts.

HB 3048, Relating to insurance coverage for certain structures.

HB 3071, Relating to the administration and collection of ad valorem taxes and the administration of appraisal districts; making procedural and technical corrections and clarifications to the Tax Code, Property Code, and Civil Practice and Remedies Code.

HB 3318, Relating to continuing education requirements for renewal of a structural pest control business license.

HB 3333, Relating to the sale or transfer of interest of real property to certain federally recognized Indian tribes.

HB 3468, Relating to an intensive reading and language intervention pilot program.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Deuell was recognized and presented Dr. Lee Schreiber of Bonham as the Physician of the Day.

The Senate welcomed Dr. Schreiber and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

SENATE RESOLUTION 803

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Eduardo Roberto Rodriguez, who has been elected president of the State Bar of Texas; and

WHEREAS, Eduardo Roberto Rodriguez is a senior partner in the law firm of Rodriguez, Colvin, Chaney, & Saenz in Brownsville; he has served on the board of directors and the federal judiciary relations committee for the State Bar of Texas; and

WHEREAS, After earning a bachelor's degree from George Washington University, he received his degree in law from The University of Texas; in 2000 he was awarded the Honorary Order of the Coif and, in 2001, served as the president of the Alumni Executive Committee; and

WHEREAS, He has held leadership positions in many professional organizations, including the Texas Association of Defense Counsel and the American College of Trial Lawyers; in addition to the Texas State Bar Association, he is active in the Cameron County Bar Association and the American Bar Association; and

WHEREAS, He is widely recognized as a leading defense attorney in South Texas, and he has made significant contributions to the Brownsville community through his work in organizations such as the Brownsville Convention and Visitors' Bureau and the Kiwanis Club; and

WHEREAS, Eduardo Rodriguez will take office as president of the Texas State Bar in June of 2005, and the Texas Senate is pleased to extend its best wishes during his tenure; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Eduardo Roberto Rodriguez for his continuing service to the legal profession and to his community and state; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of high regard from the Texas Senate.

SR 803 was again read.

The resolution was previously adopted on Friday, May 6, 2005.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Eduardo Rodriguez, President-elect of the State Bar of Texas, accompanied by his companion, Paula Tamayo; his daughter, Melanie Rodriguez Greer; and her husband, Matt Greer.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate students and their teachers from Stell Middle School in Brownsville.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 10:07 a.m. announced the conclusion of morning call.

(Senator Shapiro in Chair)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 13, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 5, Honoring the Texas Dental Association and Texas Dentists for Healthy Smiles for providing access to dental care to Texans in need through the Texas Mission of Mercy.

HCR 6, Designating January 17, 2006, as 112th Cavalry Day on the 60th anniversary of the group's deactivation.

HCR 158, Honoring Lampasas County on the occasion of its 150th anniversary.

HCR 163, Honoring Charles and Margaret Semple of Midland on the occasion of their 40th anniversary.

HCR 164, Congratulating Don Hedgpeth of Medina on receiving the 2004 Wrangler Award for Outstanding Art Book from the National Cowboy & Western Heritage Museum.

SCR 33, Commending the Panhandle-Plains Historical Museum in Canyon for hosting the exhibit Capturing Western Legends: Russell and Remington's Canadian Frontier.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 340 ON THIRD READING**

Senator Hinojosa moved to suspend the regular order of business to take up for consideration **CSHB 340** at this time on its third reading and final passage:

CSHB 340, Relating to the authority of a navigation district to establish a volunteer police reserve force and to the state law enforcement authority of certain federal peace officers.

The motion prevailed.

Senator Williams asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Williams.

Absent-excused: Janek.

SENATE BILL 1858 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **SB 1858** at this time on its second reading:

SB 1858, Relating to the authority of a local government to enforce a water pollution control and abatement program and establish standards and practices for water quality.

The motion prevailed.

Senators Shapiro and Shapleigh asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 1858** (committee printing) in Section 2 of the bill as follows:

(1) Strike the introductory language to Section 2 of the bill (page 1, lines 16 and 17), and substitute the following:

SECTION 2. Section 26.177, Water Code, is amended by amending Subsections (a), (b), (c), (d), (f), and (g) and adding Subsection (i) to read as follows:

(2) In amended Section 26.177(a), Water Code (page 1, lines 18 and 19), strike "Notwithstanding any other law, a local government [A city]" and substitute "A local government [city]".

(3) In amended Section 26.177(a), Water Code (page 1, line 22), strike "only".

(4) In amended Section 26.177(a), Water Code (page 1, line 23), before "commission", insert "minimum".

(5) In amended Section 26.177(a), Water Code (page 1, lines 24 through 26), strike "rules. A local government does not have independent authority to regulate water quality, issue permits, or establish standards or practices for water quality [city]" and substitute "rules [city]".

(6) In amended Section 26.177(b), Water Code (page 1, lines 47 and 48), strike "that are not located within a county that has adopted a water pollution control and abatement program and that [which]" and substitute "which".

(7) In amended Section 26.177(b), Water Code (page 1, line 51), between "jurisdiction" and the period, insert ", unless those areas are also located in a county that has adopted a water pollution control and abatement program, in which case the more stringent water pollution control and abatement program prevails".

(8) In amended Section 26.177(b), Water Code (page 1, lines 55 through 58), strike "that portion of the city's extraterritorial jurisdiction automatically shall be removed from the city's program and shall be subject only to the county's water pollution control and abatement program" and substitute "the more stringent water pollution control and abatement program prevails".

(9) In amended Section 26.177(b), Water Code (page 1, line 61), between "with" and "pollution", insert "minimum".

(10) In amended Section 26.177(b)(5), Water Code (page 2, line 20), between "with" and "state", insert "minimum".

(11) In amended Section 26.177(c), Water Code (page 2, line 30), between "approval" and the period, insert "to ensure compliance with minimum standards set by the commission".

(12) In amended Section 26.177(c), Water Code (page 2, line 31), between "program" and "is not effective", insert "that is in effect before June 1, 2005, is effective and may be enforced pending commission review and approval under this subsection. A water pollution control and abatement program adopted on or after June 1, 2005,".

(13) In amended Section 26.177, Water Code (page 2, between lines 64 and 65), insert the following:

(i) This section may not be construed to prevent a local government from establishing a water pollution control and abatement program that is more stringent than minimum state water quality standards and practices or other pollution and degradation standards and practices adopted by the commission. The commission, when reviewing and approving local government plans under this section, must review and consider for approval, modification, or denial a plan that at least meets minimum standards adopted by the commission. It is the policy of this state that different areas of this state have unique environmental and geological features, and the commission should recognize the needs of unique areas by establishing separate sets of rules under this section for unique areas, including the Edwards Aquifer recharge zone.

The amendment to **SB 1858** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 1858** on page 2, line 35, after the period, by inserting "A water pollution control and abatement program is effective, and may be enforced, before the commission approves the program if the local government includes a finding of fact in the program that the imminent threat of degradation to the waters within the territorial area of the local government requires the program to be implemented immediately."

The amendment to **SB 1858** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Nays: Staples.

Absent-excused: Janek.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 1858 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Shapiro.

Absent-excused: Janek.

SENATE BILL 1858 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1858** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

REMARKS ORDERED PRINTED

On motion of Senator Van de Putte and by unanimous consent, the remarks between Senators Armbrister and Van de Putte regarding **SB 1858** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Senator Van de Putte: I would like to clarify for legislative intent, the meaning on page 2, under Sec. 26.177, Water Code, Subsection (i), relating to the submission of local water quality standards and practices that exceed the state's water quality standards for review and approval by the commission. Is it your intent to ensure that when the state reviews local water quality standards, that the commission will not deny local standards and practices, if those standards and practices are based on sound science?

Senator Armbrister: Yes.

SENATE RESOLUTION 825

Senator Armbrister offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Manning All-Star cheerleaders of South Texas, who recently won a national championship from the Universal Cheerleaders Association in Orlando; and

WHEREAS, After months of training, the cheerleading squad perfected a routine that carried them through regional and state competitions before they went to the two-day national competition and competed in the small senior coed division; and

WHEREAS, Competitive cheerleading is a challenging sport that requires strength, dexterity, and specialized training; the Manning cheerleaders captured one of the top spots at the competition by demonstrating talent and team unity and the discipline instilled in them by their coaches, Jodi Blaha and DeNeal Payne, and their assistant coach Megan Supak; and

WHEREAS, The Manning All-Stars are fifth to 12th grade students and range in age from 11 to 17; they are Ashley Blackburn, Laura Cavender, Amanda Hybner, Katie Kaelin, Bailey Kovarek, Jaecy Latta, Savannah Mendoza, Syndal Brown, Heather Gillespie, Hillary Gillespie, Kelsie Dubose, Shelby Monroe, Ashley O'Riley, Jade Payne, Jazlyn Payne, Samantha Pullin, Morgan Sewalt, Melanie Vasquez, and Madison Wirtz; and

WHEREAS, These exemplary young women are a source of tremendous pride to their families and their community, and their outstanding achievement is indeed worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the Manning All-Star cheerleaders and coaches for their award-winning performance at the Universal Cheerleaders Association national competition and congratulate them on bringing home a championship title; and, be it further

RESOLVED, That a copy of this Resolution be prepared for them as an expression of esteem from the Texas Senate.

SR 825 was read and was adopted without objection.

GUESTS PRESENTED

Senator Armbrister was recognized and introduced to the Senate the Manning All-Star cheerleaders of South Texas, winners of the Universal Cheerleaders Association national championship.

The Senate welcomed its guests.

SENATE RESOLUTION 835

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Ryan Reyes of Laredo, who was selected by the United States Customs and Border Protection Border Patrol as the 2005 Youth of the Year for his exemplary contributions to his school and his community and his dedication to his studies; and

WHEREAS, The youth recognition program is sponsored by the United States Border Patrol Laredo Sector, State Senator Judith Zaffirini, KGNS-TV and local pediatrician Dr. Sara Campos; and

WHEREAS, Ryan is a graduating senior at J. B. Alexander High School; he was the Youth of the Month for April and was selected Youth of the Year from among Laredo's most outstanding young people for his academic achievements, his community involvement and his determination to succeed; and

WHEREAS, Ryan earned the highest grade point average in his class; he has played with his school's mariachi, jazz and symphonic bands for four years and was invited to participate in the Sound of America European Concert; he participates in many community activities, including performing at special events and volunteering to help with toy drives and at nursing homes and his church; and

WHEREAS, His goal is to earn a degree in chemistry at The University of Texas at Austin and to attend the university's dental school in Houston; he intends to specialize in oral and maxillofacial surgery and to work with children with facial deformities; and

WHEREAS, It is indeed a pleasure for the Texas Senate to recognize this fine young man for his many contributions to his community and his outstanding scholarly accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Ryan Reyes for his exceptional achievements and congratulate him on his selection as Laredo's Youth of the Year; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as an expression of esteem from the Texas Senate.

SR 835 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate Ryan Reyes, the 2005 Youth of the Year, selected by the United States Customs and Border Protection Border Patrol, accompanied by his parents, Javier and Wendolyne Reyes; United Independent School District Superintendent Roberto J. Santos; and Border Patrol Assistant Chief Rosa Nelly Hernandez.

The Senate welcomed its guests.

HOUSE BILL 951 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 951** at this time on its second reading:

HB 951, Relating to construction affecting pipeline easements and rights-of-way.

The bill was read second time.

Senator Seliger offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 951** (House engrossment) as follows:

(1) Insert the following appropriately numbered SECTIONS and renumber SECTIONS of the bill appropriately:

SECTION __. Subsection (a), Section 117.101, Natural Resources Code, is amended to read as follows:

(a) Except as otherwise provided by this subchapter, this [This] chapter may not be construed to reduce, limit, or impair the authority provided by law to any city.

SECTION __. Subchapter D, Chapter 117, Natural Resources Code, is amended by adding Section 117.102 to read as follows:

Sec. 117.102. AUTHORITY OF CITY TO ASSESS CHARGES. (a) Except as otherwise provided by this section, a city may not assess a charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a hazardous liquid or carbon dioxide pipeline facility on, along, or across a public road, highway, street, alley, stream, canal, or other public way.

(b) A city may:

(1) assess a reasonable annual charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal by an owner or operator of a hazardous liquid or carbon dioxide pipeline facility on, along, or across the public roads, highways, streets, alleys, streams, canals, or other public ways located within the city and maintained by the city; and

(2) recover the reasonable cost of repairing damage to a public road, highway, street, alley, stream, canal, or other public way located within the city and maintained by the city that is caused by the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a hazardous liquid or carbon dioxide pipeline facility if the owner or operator of the facility does not repair the damage in accordance with generally applicable paving standards or other applicable standards in the city.

(c) A charge authorized by Subsection (b)(1) may not exceed the cost to the city of administering, supervising, inspecting, and otherwise regulating the location of the pipeline facility, including maintaining records and maps of the location of the pipeline facility.

(d) The owner or operator of a pipeline facility may appeal the assessment of a charge under Subsection (b)(1) to the commission. The commission shall hear the appeal de novo. Unless the city that assessed the charge establishes that the charge is authorized by this section, the commission shall declare the charge invalid or reduce the charge to an amount authorized by this section. The commission has exclusive jurisdiction to determine whether a charge under Subsection (b)(1) is authorized by this section. The owner or operator of the pipeline facility and the city shall share equally the costs incurred by the commission in connection with the appeal.

(e) A city must file suit to collect a charge authorized by Subsection (b)(1) not later than the fourth anniversary of the date the charge becomes due. The running of the limitations period under this subsection is tolled on the filing of an appeal of the charge under Subsection (d) and begins running again on the date the appeal is determined.

(f) This section may not be construed to prevent a city from:

(1) recovering the reasonable cost of repairing damage to a city facility, other than a public way, caused by acts of the owner or operator of a pipeline facility; or

(2) requiring the owner or operator of a pipeline facility to relocate the pipeline facility, at the owner's or operator's expense, to permit the construction, maintenance, modification, or alteration of a city facility.

(g) Notwithstanding Subsection (f)(2), the city shall pay the cost of relocating a pipeline facility if the pipeline facility is authorized by a property right that has priority over the city's right to use the public way for the city facility.

SECTION __. Subsection (b), Section 121.202, Utilities Code, is amended to read as follows:

(b) Except as provided by Subsection (a) and by Section 121.2025, this subchapter does not reduce, limit, or impair:

(1) a power vested by law in:

(A) a county in relation to a county road; or

(B) a municipality; or

(2) the ability of a municipality to:

(A) adopt an ordinance that establishes conditions for mapping, inventorying, locating [installing], or relocating pipelines over, under, along, or across a public street or alley or private residential area in the boundaries of the municipality; or

(B) establish conditions for mapping or taking an inventory in an area in a municipality's extraterritorial jurisdiction.

SECTION __. Subchapter E, Chapter 121, Utilities Code, is amended by adding Section 121.2025 to read as follows:

Sec. 121.2025. AUTHORITY OF MUNICIPALITY TO ASSESS CHARGES.

(a) Except as otherwise provided by this section or Section 182.025, Tax Code, a municipality may not assess a charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a gas pipeline facility on, along, or across a public road, highway, street, alley, stream, canal, or other public way.

(b) A municipality may:

(1) assess a reasonable annual charge for the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal by an owner or operator of a gas pipeline facility on, along, or across the public roads, highways, streets, alleys, streams, canals, or other public ways located within the municipality and maintained by the municipality; and

(2) recover the reasonable cost of repairing damage to a public road, highway, street, alley, stream, canal, or other public way located within the municipality and maintained by the municipality that is caused by the placement, construction, maintenance, repair, replacement, operation, use, relocation, or removal of a gas pipeline facility if the owner or operator of the facility does not repair the damage in accordance with generally applicable paving standards or other applicable standards in the municipality.

(c) A charge authorized by Subsection (b)(1) may not exceed the cost to the municipality of administering, supervising, inspecting, and otherwise regulating the location of the gas pipeline facility, including maintaining records and maps of the location of the pipeline facility.

(d) The owner or operator of a gas pipeline facility may appeal the assessment of a charge under Subsection (b)(1) to the railroad commission. The railroad commission shall hear the appeal de novo. Unless the municipality that assessed the charge establishes that the charge is authorized by this section, the railroad commission shall

declare the charge invalid or reduce the charge to an amount authorized by this section. The railroad commission has exclusive jurisdiction to determine whether a charge under Subsection (b)(1) is authorized by this section. The owner or operator of the gas pipeline facility and the municipality shall share equally the costs incurred by the railroad commission in connection with the appeal.

(e) A municipality must file suit to collect a charge authorized by Subsection (b)(1) not later than the fourth anniversary of the date the charge becomes due. The running of the limitations period under this subsection is tolled on the filing of an appeal of the charge under Subsection (d) and begins running again on the date the appeal is determined.

(f) This section may not be construed to prevent a municipality from:

(1) recovering the reasonable cost of repairing damage to a municipal facility, other than a public way, caused by acts of the owner or operator of a gas pipeline facility; or

(2) requiring the owner or operator of a gas pipeline facility to relocate the pipeline facility, at the owner's or operator's expense, to permit the construction, maintenance, modification, or alteration of a municipal facility.

(g) Notwithstanding Subsection (f)(2), the municipality shall pay the cost of relocating a gas pipeline facility if the pipeline facility is authorized by a property right that has priority over the municipality's right to use the public way for the municipal facility.

(2) Strike SECTION 5 of the bill (page 4, line 24, through page 5, line 1) and substitute the following:

SECTION 5. (a) Except as provided by this section, the change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act. Conduct that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Section 117.102, Natural Resources Code, and Section 121.2025, Utilities Code, as added by this Act, do not affect:

(1) the validity or enforceability of a contract entered into before the effective date of this Act by a municipality and the owner or operator of a hazardous liquid, carbon dioxide, or gas pipeline; or

(2) the enforceability of a charge assessed by a municipality before September 1, 2006, under an ordinance adopted on or before September 1, 2004.

(c) Section 117.102, Natural Resources Code, and Section 121.2025, Utilities Code, as added by this Act, apply to a charge assessed by a municipality on or after:

(1) the effective date of this Act under an ordinance adopted after September 1, 2004; and

(2) September 1, 2006, under an ordinance regardless of the date of adoption of the ordinance.

The amendment to **HB 951** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1 except as follows:

Absent-excused: Janek.

On motion of Senator Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 951 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Janek.

HOUSE BILL 951 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 951** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 1840 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1840** at this time on its second reading:

CSSB 1840, Relating to the Willacy County Drainage District No. 1; providing the authority to impose a tax.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Janek.

COMMITTEE SUBSTITUTE SENATE BILL 1840 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1840** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 1704 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 1704** at this time on its second reading:

CSSB 1704, Relating to jury service.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Duncan, Ellis, Fraser, Gallegos, Hinojosa, Jackson, Lucio, Madla, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Eltife, Estes, Harris, Lindsay, Nelson, Seliger, Shapiro, Staples.

Absent: Ogden.

Absent-excused: Janek.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1704** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in proposed Subsection (c), Section 61.0015, Government Code, between "claim" and the underlined period (page 1, line 32), insert "from money collected under Article 102.0045, Code of Criminal Procedure, and deposited in the judicial fund".

(2) In SECTION 2 of the bill, immediately following proposed Subsection (c), Section 61.0015, Government Code (page 1, between lines 32 and 33), add the following:

(d) If sufficient money described by Subsection (c) is not available to satisfy the claims for reimbursement filed by the counties under this section, the comptroller shall apportion the available money among the counties by reducing the amount payable to each county on an equal percentage basis.

(e) If a payment on a county's claim for reimbursement is reduced under Subsection (d), or if a county fails to file the claim for reimbursement in a timely manner, the comptroller shall:

(1) pay the balance owed to the county when sufficient money described by Subsection (c) is available; or

(2) carry forward the balance owed to the county and pay the balance to the county when the next payment is required.

(3) In SECTION 5 of the bill, in proposed Article 102.0045, Code of Criminal Procedure, between "COUNTIES." and "A" (page 2, line 11), insert "(a)".

(4) In SECTION 5 of the bill, immediately following proposed Article 102.0045, Code of Criminal Procedure (page 2, between lines 16 and 17), add the following:

(b) The clerk of the court shall remit the fees collected under this article to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fees in the judicial fund.

(5) Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS accordingly:

SECTION __. Section 133.003, Local Government Code, is amended to read as follows:

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

- (1) the consolidated fee imposed under Section 133.102;
- (2) the time payment fee imposed under Section 133.103;
- (3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;
- (4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;
- (5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;
- (6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code; ~~and~~
- (7) fines on conviction imposed under Section 621.506(g), Transportation Code; and
- (8) the fee imposed under Article 102.0045, Code of Criminal Procedure.

SECTION __. Section 51.607, Government Code, does not apply to court costs or fees imposed under this Act.

The amendment to **CSSB 1704** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1704 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Deuell, Eltife, Estes, Fraser, Harris, Lindsay, Nelson, Seliger, Shapiro, Staples.

Absent-excused: Janek.

COMMITTEE SUBSTITUTE SENATE BILL 1165 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1165** at this time on its second reading:

CSSB 1165, Relating to authorizing the City of Aransas Pass to acquire certain state property.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
SENATE BILL 1165 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1165** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(Senator Armbrister in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1142 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1142** at this time on its second reading:

CSSB 1142, Relating to the creation of a film industry incentive program and the promotion of state tourism.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1142** as follows:

(1) In SECTION 2 of the bill, in proposed Subsection (a), Section 485.022, Government Code (committee printing, page 1, line 39), between "state" and the period, insert ", to the extent that gifts, grants, donations, or other money, including appropriations, are made available to the office for that purpose".

(2) In SECTION 2 of the bill, at the end of proposed Subsection (b), Section 485.022, Government Code (committee printing, page 1, between lines 47 and 48), insert the following:

(c) The office may accept gifts, grants, and donations for the purpose of implementing this subchapter.

(3) Strike SECTION 3 of the bill (committee printing, page 2, lines 13-27) and renumber subsequent SECTIONS of the bill as appropriate.

The amendment to **CSSB 1142** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

On motion of Senator Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1142 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
SENATE BILL 1142 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1142** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1382 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1382** at this time on its second reading:

CSSB 1382, Relating to the reorganization of the Railroad Commission of Texas, including changing the name of the agency to the Texas Energy Commission and transferring powers and duties from and to the agency.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend the committee report printing of **CSSB 1382** by striking SECTION 4 in its entirety and renumbering remaining sections accordingly.

The amendment to **CSSB 1382** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1382 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
SENATE BILL 1382 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1382** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

HOUSE BILL 1508 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1508** at this time on its second reading:

HB 1508, Relating to reporting of expenditures by persons registered as lobbyists.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Janek.

HOUSE BILL 1508 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1508** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 1744 ON SECOND READING

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **SB 1744** at this time on its second reading:

SB 1744, Relating to the creation of the Texas-Mexico Strategic Investment Commission.

The motion prevailed.

Senators Brimer, Estes, and Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Brimer, Estes, Nelson.

Absent-excused: Janek.

SENATE BILL 1744 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1744** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Armbrister, Averitt, Barrientos, Carona, Deuell, Duncan, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Estes, Nelson.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

HOUSE BILL 282 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 282** at this time on its second reading:

HB 282, Relating to the funding of alternative dispute resolution systems.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Janek.

HOUSE BILL 282 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 282** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 282** (Senate committee printing) on third reading as follows:

(1) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION ____. Chapter 152, Civil Practice and Remedies Code, is amended by adding Section 152.006 to read as follows:

Sec. 152.006. FEE FOR ALTERNATIVE DISPUTE RESOLUTION CENTERS. An entity described by Section 152.002(b)(1) that provides services for the resolution of disputes in a county with a population of 250,000 or more but less than 290,000 may collect a reasonable fee in any amount set by the commissioners court from a person who receives the services. This section may not be construed to affect the collection of a fee by any other entity described by Section 152.002(b)(1).

(2) In SECTION 3 of the bill (page 1, line 37), strike "This Act applies" and substitute "(a) Sections 1 and 2 of this Act apply".

(3) In SECTION 3 of the bill (page 1, between lines 38 and 39), insert the following:

(b) Section ____ of this Act applies only to alternative dispute resolution services provided on or after the effective date of this Act. Any alternative dispute resolution services provided before the effective date of this Act are governed by the law in effect immediately before that time, and that law is continued in effect for that purpose.

The amendment to **HB 282** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 282 as amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
SENATE BILL 322 ON SECOND READING**

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 322** at this time on its second reading:

CSSB 322, Relating to proceeds from the sale of certain state personal and real property.

The bill was read second time and was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
SENATE BILL 322 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 322** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 7 ON SECOND READING**

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 7** at this time on its second reading:

CSHB 7, Relating to the continuation and operation of the workers' compensation system of this state, including changing the name of the Texas Workers' Compensation Commission to the Texas Department of Workers' Compensation, the powers and duties of the governing authority of that department, the provision of workers' compensation benefits to injured employees, and the regulation of workers' compensation insurers; providing administrative and criminal penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
HOUSE BILL 7 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 7** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

SENATE BILL 1050 WITH HOUSE AMENDMENTS

Senator Van de Putte called **SB 1050** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Armbrister in Chair, laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SB 1050** (House committee report) as follows:

(1) In SECTION 3 of the bill, in amended Section 143.036(f), Local Government Code (page 4, line 9), strike "if the person being bypassed is a fire fighter.".

(2) In SECTION 4 of the bill, in amended Section 143.057(a), Local Government Code (page 4, lines 19 and 20), strike "of a fire fighter".

(3) In SECTION 5(a) of the bill (page 5, line 4), strike "to a fire fighter".

(4) In SECTION 5(b) of the bill (page 5, line 12), strike "of a fire fighter".

Floor Amendment No. 1 on Third Reading

Amend **SB 1050** on third reading by adding an appropriately numbered SECTIONS to read as follows:

SECTION __. Section 143.027(a), Local Government Code, is amended to read as follows:

(a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee. In a municipality with a population less than 1.9 million, the commission by rule may extend the probationary period by not longer than six months for persons who:

(1) are not employed by a department in which a collective bargaining agreement or meet-and-confer agreement currently exists or previously existed; and

(2) must attend a basic training academy necessary for initial certification by the Texas Commission on Fire Protection or the Commission on Law Enforcement Officer Standards and Education.

SECTION __. Section 143.041(c), Local Government Code, is amended to read as follows:

(c) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

(1) longevity or seniority pay;

(2) educational incentive pay as authorized by Section 143.044;

(3) assignment pay as authorized by Sections 143.042 and 143.043;

(4) certification pay as authorized by Section 143.044; ~~and~~

(5) shift differential pay as authorized by Section 143.047; and

(6) fitness incentive pay as authorized by Section 143.044.

SECTION _____. The heading to Section 143.044, Local Government Code, is amended to read as follows:

Sec. 143.044. CERTIFICATION, ~~[AND]~~ EDUCATIONAL INCENTIVE, AND FITNESS INCENTIVE PAY.

SECTION _____. Section 143.044, Local Government Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If the criteria for fitness incentive pay are clearly established, are in writing, and are applied equally to each fire fighter or police officer in a municipality who meets the criteria, the municipality's governing body may authorize fitness incentive pay for each fire fighter or police officer who successfully meets the criteria.

(e) The certification pay, ~~and~~ educational incentive pay, and fitness incentive pay are in addition to a fire fighter's or police officer's regular pay.

SECTION _____. The change in law made by this Act to Section 143.027(a), Local Government Code, applies only in relation to a person whose date of employment for purposes of that law is on or after the effective date of this Act. A person whose date of employment for purposes of that law is before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

The amendments were read.

Senator Van de Putte moved to concur in the House amendments to **SB 1050**.

The motion was lost by the following vote: Yeas 13, Nays 17.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Ellis, Gallegos, Hinojosa, Lucio, Madla, Ogden, Shapleigh, Van de Putte, Zaffirini.

Nays: Brimer, Carona, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Lindsay, Nelson, Seliger, Shapiro, Staples, Wentworth, West, Whitmire, Williams.

Absent-excused: Janek.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House were read first time and referred to the committees indicated:

HB 49 to Committee on Criminal Justice.

HB 85 to Committee on Criminal Justice.

HB 209 to Committee on Jurisprudence.

HB 260 to Committee on Jurisprudence.

HB 270 to Committee on Jurisprudence.

HB 401 to Committee on Jurisprudence.

HB 625 to Committee on Education.

HB 661 to Committee on Government Organization.

HB 726 to Committee on Finance.

HB 843 to Committee on Business and Commerce.

HB 955 to Committee on Business and Commerce.

HB 972 to Committee on Government Organization.

HB 984 to Committee on Health and Human Services.

HB 988 to Committee on Transportation and Homeland Security.

HB 1047 to Committee on Natural Resources.

HB 1068 to Committee on Criminal Justice.

HB 1074 to Committee on Criminal Justice.

HB 1120 to Committee on Criminal Justice.

HB 1132 to Committee on Business and Commerce.
HB 1238 to Committee on Jurisprudence.
HB 1268 to Committee on State Affairs.
HB 1317 to Committee on Business and Commerce.
HB 1318 to Committee on Veteran Affairs and Military Installations.
HB 1366 to Committee on Health and Human Services.
HB 1379 to Committee on State Affairs.
HB 1484 to Committee on Criminal Justice.
HB 1532 to Committee on State Affairs.
HB 1535 to Committee on Government Organization.
HB 1547 to Committee on Business and Commerce.
HB 1582 to Committee on Intergovernmental Relations.
HB 1584 to Committee on Transportation and Homeland Security.
HB 1644 to Committee on Natural Resources.
HB 1767 to Subcommittee on Agriculture and Coastal Resources.
HB 1816 to Committee on Transportation and Homeland Security.
HB 1821 to Committee on Natural Resources.
HB 1830 to Committee on Intergovernmental Relations.
HB 1921 to Committee on Criminal Justice.
HB 1940 to Committee on State Affairs.
HB 1952 to Committee on State Affairs.
HB 2145 to Committee on Health and Human Services.
HB 2187 to Committee on Finance.
HB 2215 to Committee on Intergovernmental Relations.
HB 2218 to Committee on Business and Commerce.
HB 2239 to Committee on Transportation and Homeland Security.
HB 2303 to Committee on Business and Commerce.
HB 2376 to Committee on Natural Resources.
HB 2390 to Committee on State Affairs.
HB 2463 to Committee on International Relations and Trade.
HB 2470 to Committee on Health and Human Services.
HB 2572 to Committee on Health and Human Services.
HB 2668 to Committee on Jurisprudence.
HB 2696 to Committee on Health and Human Services.
HB 2747 to Committee on Intergovernmental Relations.
HB 2751 to Committee on Intergovernmental Relations.
HB 2801 to Committee on Finance.
HB 2819 to Committee on Government Organization.
HB 2833 to Committee on Natural Resources.
HB 2837 to Committee on Criminal Justice.
HB 2839 to Committee on Criminal Justice.
HB 2868 to Committee on State Affairs.
HB 2879 to Committee on Business and Commerce.
HB 2894 to Committee on Transportation and Homeland Security.
HB 2905 to Committee on Criminal Justice.
HB 2932 to Committee on Government Organization.

HB 3029 to Committee on Natural Resources.
HB 3057 to Committee on Intergovernmental Relations.
HB 3093 to Committee on Criminal Justice.
HB 3125 to Committee on State Affairs.
HB 3149 to Committee on Business and Commerce.
HB 3181 to Committee on Natural Resources.
HB 3253 to Committee on Transportation and Homeland Security.
HB 3297 to Committee on Education.
HB 3335 to Committee on State Affairs.
HB 3376 to Committee on Criminal Justice.
HJR 32 to Committee on Finance.
HJR 79 to Committee on Transportation and Homeland Security.

GUEST PRESENTED

Senator Nelson was recognized and introduced to the Senate her daughter, Christina Nelson.

The Senate welcomed its guest.

COMMITTEE SUBSTITUTE HOUSE BILL 1077 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1077** at this time on its second reading:

CSHB 1077, Relating to the composition of certain courts of appeals districts and to the assignment and transfer of cases in certain courts of appeals districts.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1077** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, amending Subsections (b) and (o), Section 22.201, Government Code (page 1, lines 18 and 37), strike "[~~Trinity, Walker,~~]" and substitute "[~~Trinity,~~] Walker,".

(2) In SECTION 1 of the bill, amending Subsection (k), Section 22.201, Government Code (page 1, line 29), strike "[~~and~~] Somervell, and Walker" and substitute "and Somervell".

(3) In SECTION 3 of the bill, in proposed Subsection (a) of that SECTION (page 1, line 41), strike ", Trinity, and Walker" and substitute "and Trinity".

(4) In SECTION 3 of the bill, in proposed Subsection (c) of that SECTION (page 1, line 55), strike ", Trinity, and Walker" and substitute "and Trinity".

The amendment to **CSHB 1077** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1077 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Janek.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1077 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1077** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Janek.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 12 ON SECOND READING**

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **CSSB 12** at this time on its second reading:

CSSB 12, Relating to contracting and ethics issues of state agencies; providing a civil penalty.

The motion prevailed.

Senators Eltife and Fraser asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 12** (Senate committee printing) as follows:

(1) In Section 1.04 of the bill, in amended Subsection (a), Section 2262.053, Government Code (page 1, line 37), strike "commission" and substitute "commission or a private vendor selected by the commission".

(2) In Section 1.05 of the bill, in added Subsection (a), Section 2262.0535, Government Code (page 1, line 51), strike "commission" and substitute "commission or a private vendor selected by the commission".

The amendment to **CSSB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Janek.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 12** (Senate committee printing) as follows:

(1) In the recital to Section 1.05 of the bill (page 1, line 49), strike "2262.066" and substitute "2262.067".

(2) In Section 1.05 of the bill, in amended Subchapter B, Chapter 2262, Government Code (page 3, between lines 64 and 65), insert added Section 2262.067 to read as follows:

Sec. 2262.067. DEVELOPMENT OF OPTIMIZED MODEL FOR CERTAIN CONTRACTS. (a) If a state agency determines that a proposed contract or proposed contract amendment would outsource existing services or functions performed by the agency that have a value of \$10,000,000 or more, or that would lead to the loss of 100 or more existing state employee positions, the agency shall create an optimized model for the identified functions or services to determine how and at what cost the agency could most efficiently provide the functions or services.

(b) The model must show consideration of all relevant factors, including:

- (1) best practices in Texas and other states;
- (2) available technology;
- (3) access to benefits and services for clients; and
- (4) program integrity.

(c) An agency that develops an optimized model under this section shall use it as the basis for cost comparison when deciding whether to outsource the identified functions or services.

(d) A model developed under this section is confidential and is not subject to disclosure under Chapter 552 until a final determination has been made to award the contract for which the model was developed.

(3) In Section 1.09(a) of the bill (page 5, line 58), strike "Section 2262.064" and substitute "Sections 2262.064 and 2262.067".

(4) In Section 1.09(a) of the bill (page 5, line 59), strike "applies" and substitute "apply".

The amendment to **CSSB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Janek.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 12** (Senate committee printing) as follows:

(1) In Section 1.07 of the bill, in added Subchapter D, Chapter 2262, Government Code (page 5, between lines 8 and 9), insert added Section 2262.157 to read as follows:

Sec. 2262.157. HIRING PREFERENCE PROVISION FOR CERTAIN LARGE CONTRACTS. If a state agency determines that a proposed contract or proposed contract amendment would outsource existing services or functions performed by the

agency that have a value of \$10,000,000 or more, or that would lead to the loss of 100 or more existing state employee positions, the contract or contract amendment must contain a provision that requires the contractor to give preference in hiring to former employees of a state agency:

(1) whose employment is terminated because of the contract or contract amendment; and

(2) who satisfy the contractor's hiring criteria for that position.

(2) In Section 1.14(b) of the bill (page 6, lines 22-23), strike "and 2262.155" and substitute "2262.155, and 2262.157".

The amendment to **CSSB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Janek.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 12** (committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the subsequent ARTICLES accordingly:

ARTICLE __. PREFERENCE IN GOVERNMENTAL PURCHASING
DECISIONS FOR VENDORS THAT PROVIDE
HEALTH BENEFITS TO EMPLOYEES

SECTION __.01. Section 44.031(b), Education Code, is amended to read as follows:

(b) Except as provided by this subchapter, in determining to whom to award a contract, the district may consider:

(1) the purchase price;

(2) the reputation of the vendor and of the vendor's goods or services;

(3) the quality of the vendor's goods or services;

(4) the extent to which the goods or services meet the district's needs;

(5) the vendor's past relationship with the district;

(6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;

(7) the total long-term cost to the district to acquire the vendor's goods or services; ~~and~~

(8) whether the vendor provides health benefits coverage to employees; and

(9) any other relevant factor specifically listed in the request for bids or proposals.

SECTION __.02. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.0421 to read as follows:

Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A district procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan

offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

(1) the goods or services meet district specifications regarding quantity and quality; and

(2) the cost of the goods or services does not exceed the ultimate cost to the district that would result if the district procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(b) A district may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.03. Section 51.9335(b), Education Code, is amended to read as follows:

(b) In determining what is the best value to an institution of higher education, the institution shall consider:

(1) the purchase price;

(2) the reputation of the vendor and of the vendor's goods or services;

(3) the quality of the vendor's goods or services;

(4) the extent to which the goods or services meet the institution's needs;

(5) the vendor's past relationship with the institution;

(6) the impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the institution of acquiring the vendor's goods or services;

(8) any other relevant factor that a private business entity would consider in selecting a vendor; ~~and~~

(9) the use of material in construction or repair to real property that is not proprietary to a single vendor unless the institution provides written justification in the request for bids for use of the unique material specified; and

(10) whether the vendor provides health benefits coverage to employees.

SECTION __.04. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9336 to read as follows:

Sec. 51.9336. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) An institution of higher education procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

(1) the goods or services meet institution specifications regarding quantity and quality; and

(2) the cost of the goods or services does not exceed the ultimate cost to the institution that would result if the institution procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(c) An institution of higher education may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.05. Section 73.115(b), Education Code, is amended to read as follows:

(b) In determining what is the best value to the institution, the institution shall consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the institution's needs;
- (5) the vendor's past relationship with the institution;
- (6) the impact on the ability of the institution to comply with laws and rules relating to historically underutilized businesses;
- (7) the total long-term cost to the institution of acquiring the vendor's goods or services; ~~and~~

(8) as provided by Section 51.9336, whether the vendor provides health benefits coverage to employees; and

(9) any other relevant factor that a private business entity would consider in selecting a vendor.

SECTION __.06. Section 74.008(b), Education Code, is amended to read as follows:

(b) In determining what is the best value to the medical branch, the medical branch shall consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the medical branch's needs;
- (5) the vendor's past relationship with the medical branch;
- (6) the impact on the ability of the medical branch to comply with laws and rules relating to historically underutilized businesses;
- (7) the total long-term cost to the medical branch of acquiring the vendor's goods or services; ~~and~~

(8) as provided by Section 51.9336, whether the vendor provides health benefits coverage to employees; and

(9) any other relevant factor that a private business entity would consider in selecting a vendor.

SECTION __.07. Section 2155.074(b), Government Code, is amended to read as follows:

(b) In determining the best value for the state, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the commission or other state agency may, subject to Subsection (c) and Section 2155.075, consider other relevant factors, including:

- (1) installation costs;
- (2) life cycle costs;
- (3) the quality and reliability of the goods and services;
- (4) the delivery terms;
- (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
- (6) the cost of any employee training associated with a purchase;
- (7) the effect of a purchase on agency productivity;
- (8) the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment;
- (9) whether the vendor provides health benefits coverage to employees; and
- (10) ~~(9)~~ other factors relevant to determining the best value for the state in the context of a particular purchase.

SECTION __.08. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) The commission and all state agencies procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

(1) the goods or services meet state specifications regarding quantity and quality; and

(2) the cost of the goods or services does not exceed the ultimate cost to the commission or state agency that would result if the commission or state agency procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(b) The commission or a state agency may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.09. Section 252.043(b), Local Government Code, is amended to read as follows:

(b) In determining the best value for the municipality, the municipality may consider:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;
- (3) the quality of the bidder's goods or services;

- (4) the extent to which the goods or services meet the municipality's needs;
- (5) the bidder's past relationship with the municipality;
- (6) the impact on the ability of the municipality to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- (7) the total long-term cost to the municipality to acquire the bidder's goods or services; ~~[and]~~
- (8) whether the bidder provides health benefits coverage to employees; and
- (9) any relevant criteria specifically listed in the request for bids or proposals.

SECTION __.10. Subchapter C, Chapter 252, Local Government Code, is amended by adding Section 252.0431 to read as follows:

Sec. 252.0431. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A municipality procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

- (1) the goods or services meet municipality specifications regarding quantity and quality; and
- (2) the cost of the goods or services does not exceed the ultimate cost to the municipality that would result if the municipality procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(b) A municipality may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.11. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.0271 to read as follows:

Sec. 262.0271. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) The commissioners court of a county procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

- (1) the goods or services meet county specifications regarding quantity and quality; and
- (2) the cost of the goods or services does not exceed the ultimate cost to the county that would result if the commissioners court procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(b) A commissioners court may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.12. Subchapter C, Chapter 271, Local Government Code, is amended by adding Section 271.0571 to read as follows:

Sec. 271.0571. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A municipality or county procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

(1) the goods or services meet municipality or county specifications regarding quantity and quality; and

(2) the cost of the goods or services does not exceed the ultimate cost to the municipality or county that would result if the municipality or county procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(b) A municipality or county may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.13. Section 271.113, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to other considerations under this section, in determining to whom to award a contract, a municipality or county may consider whether the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees.

SECTION __.14. Subchapter H, Chapter 271, Local Government Code, is amended by adding Section 271.1131 to read as follows:

Sec. 271.1131. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH BENEFITS COVERAGE. (a) A municipality or county procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health benefits coverage that is at least equivalent to a standard health benefit plan offered in accordance with Article 3.80, Article 20A.09N, or Chapter 1507, Insurance Code, to each of the vendor's full-time employees and dependents of full-time employees if:

(1) the goods or services meet municipality or county specifications regarding quantity and quality; and

(2) the cost of the goods or services does not exceed the ultimate cost to the municipality or county that would result if the municipality or county procured similar goods or services from a vendor that does not demonstrate that the vendor provides health benefits coverage to the vendor's employees and employees' dependents.

(b) A municipality or county may not give preference under this section to a vendor that provides health benefits coverage to its employees over a vendor with 50 or fewer employees that does not provide health benefits coverage to its employees and employees' dependents.

SECTION __.15. The changes in law made by this article apply only to a contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar required notification as to the goods or services is published on or after September 1, 2005. A contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar required notification as to the goods or services is published before September 1, 2005, is governed by the law in effect at the time the solicitation, request, or notification is published, and that law is continued in effect for that purpose.

The amendment to **CSSB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 except as follows:

Nays: Eltife, Fraser, Staples.

Absent-excused: Janek.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 5

Amend the committee report printing of **CSSB 12** as follows:

(1) In SECTION 1.05, Section 2262.057, Government Code (page 2 line 14) strike "payments made or outstanding under the contract" and substitute "cumulative payments and encumbrances under the contract".

(2) In SECTION 1.05, Section 2262.057, Government Code (page 2 lines 15-16) strike "key contract terms that have not yet been performed" and substitute "key contract terms that are out of compliance in terms of timeliness standards".

(3) In SECTION 1.05, Section 2262.063, Government Code (page 3, lines 14-19) strike Subsection (b) and substitute the following:

(b) Each state agency shall promulgate administrative rules to establish a monetary threshold above which agency contracts and amendments to agency contracts require written authorization by the agency executive director.

(4) In SECTION 1.05, Section 2262.059, Government Code (page 2 line 42) insert the following subsection (c) and reletter the existing subsections appropriately:

(c) The commission shall establish an evaluation process that allows vendors who receive an unfavorable performance review to protest any classification given by the commission.

(5) In SECTION 1.05, Section 2262.065, Government Code (page 3, line 31) strike "shall" and substitute "may".

(6) In SECTION 1.05, Section 2262.066, Government Code (page 3, line 57) strike subsection (b).

(7) In SECTION 1.07, Section 2262.252, Government Code (page 5, line 39) insert subsection (b) and reletter existing subsections accordingly:

(b) this section does not apply to contract extensions that are specifically established as a component of the original procurement.

The amendment to **CSSB 12** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Janek.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 12** as follows by adding appropriately numbered SECTIONS to the bill and renumbering subsequent sequent SECTIONS accordingly:

SECTION __. Section 254.036, Election Code, is amended to read as follows:

Sec. 254.036. FORM OF REPORT; AFFIDAVIT; MAILING OF FORMS. (a)

Each report filed under this chapter with an authority other than the commission must be on a form prescribed by the commission and must be written in black ink or typed with black typewriter ribbon unless the report is a computer printout. If the report is a computer printout, the printout must conform to the same format and paper size as the form prescribed by the commission.

(b) Except as provided by Subsection (c) or (d) [~~(c), or (d)~~], each report filed under this chapter with the commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format.

(c) ~~[A candidate, officeholder, or political committee that is required to file reports with the commission may file reports that comply with Subsection (a) if:~~

~~[(1) the candidate, officeholder, or campaign treasurer of the committee files with the commission an affidavit stating that the candidate, officeholder, or committee, an agent of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts does not use computer equipment to keep the current records of political contributions, political expenditures, or persons making political contributions to the candidate, officeholder, or committee; and~~

~~[(2) the candidate, officeholder, or committee does not, in a calendar year, accept political contributions that in the aggregate exceed \$20,000 or make political expenditures that in the aggregate exceed \$20,000.~~

~~[(e-1) An affidavit under Subsection (c) must be filed with each report filed under Subsection (a). The affidavit must include a statement that the candidate, officeholder, or political committee understands that the candidate, officeholder, or committee shall file reports as required by Subsection (b) if:~~

~~[(1) the candidate, officeholder, or committee, a consultant of the candidate, officeholder, or committee, or a person with whom the candidate, officeholder, or committee contracts uses computer equipment for a purpose described by Subsection (e); or~~

~~[(2) the candidate, officeholder, or committee exceeds \$20,000 in political contributions or political expenditures in a calendar year.]~~

~~(e)~~ A candidate for an office described by Section 252.005(5) or a specific-purpose committee for supporting or opposing only candidates for an office described by Section 252.005(5) or a measure described by Section 252.007(5) may file reports that comply with Subsection (a).

~~(d)~~ ~~(f)~~ An individual required to file a report with the commission in connection with a direct campaign expenditure to which Section 253.062 applies may file a report that complies with Subsection (a).

~~(e)~~ ~~(h)~~ Each report filed under this chapter that is not filed by electronic transfer must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code." Each report filed under this chapter by electronic transfer must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed under this chapter is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or a defect in the affidavit.

~~(f)~~ ~~(i)~~ Each person required to file reports with the commission that comply with Subsection (b) shall file with the commission a written statement providing the manner of electronic transfer that the person will use to file the report. A statement under this subsection must be filed not later than the 30th day before the filing deadline for the first report a person is required to file under Subsection (b). A person who intends to change the manner of filing described by the person's most recent statement shall notify the commission of the change not later than the 30th day before the filing deadline for the report to which the change applies. If a person does not file a statement under this subsection, the commission may accept as authentic a report filed in any manner that complies with Subsection (b). If the commission receives a report that is not filed in the manner described by the person's most recent statement under this subsection, the commission shall promptly notify the person in writing that the commission has received a report filed in a different manner than expected.

~~(g)~~ ~~(j)~~ As part of the notification required by Section 251.033, the commission shall mail the appropriate forms to each person required to file a report with the commission during that reporting period.

~~(h)~~ ~~(k)~~ The commission shall prescribe forms for purposes of legislative caucus reports under Section 254.0311 that are separate and distinct from forms for other reports under this chapter.

~~(i)~~ ~~(l)~~ This section applies to a report that is filed electronically or otherwise.

SECTION __. Section 572.030, Government Code, is amended to read as follows:

Sec. 572.030. Preparation and Mailing of Forms; Electronic Filing. (a) The commission shall design forms that may be used for filing the financial statement under this subchapter. The commission shall also accept submission of the financial statement required under this subchapter by electronic transfer.

(b) Except as provided by Subsection (d), the [The] commission shall mail two copies of the financial statement form to each individual required to file under this subchapter.

(c) Except as provided by Subsection (d), the [The] copies must be mailed:

(1) before the 30th day before the deadline for filing the financial statement under Section 572.026(a) or (c), except as otherwise provided by this subsection;

(2) not later than the 15th day after the applicable deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c);

(3) not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b), or if the legislature is in session, sooner if possible; and

(4) not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 574.027(d).

(d) Individuals required to file a financial statement under this subchapter, may file by computer diskette, modem, or other means of electronic transfer, using computer software that meets commission specifications for a standard file format. Each report filed under this subsection must be under oath by the person required to file the report and must contain, in compliance with commission specifications, the digitized signature of the person required to file the report. A report filed by electronic transfer under this subsection is considered to be under oath by the person required to file the report, and the person is subject to prosecution under Chapter 37, Penal Code. Each person who files a report under this subsection shall file with the commission a written statement providing the manner of electronic transfer that the person will use to file the report. The statement must be filed not later than the 30th day before the filing deadline for the first report a person opts to file under this subsection. A person who intends to change the manner of filing described by the person's most recent statement shall notify the commission of the change not later than the 30th day before the filing deadline for the report to which the change applies. If a person does not file a statement under this subsection, the commission may accept as authentic a report filed in any manner that complies with commission specifications. If the commission receives a report that is not filed in the manner described by the person's most recent statement under this subsection, the commission shall promptly notify the person in writing that the commission has received a report filed in a different manner than expected.

SECTION __. Section 572.032, Government Code, is amended by amending Subsection (b) to read as follows:

(b) The commission shall provide electronic access to the statements on the commission's website [During the one year period following the filing of a financial statement, each time a person requests to see the financial statement, excluding the commission or a commission employee acting on official business, the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The commission shall retain that statement in the file for one year after the date the requested financial statement is filed].

SECTION __. Section 572.034, Government Code, is amended by amending Subsection (c) to read as follows:

(c) In a prosecution for failure to file a financial statement under this section, it is a defense that the individual did not receive copies of the financial statement form required by this subchapter to be mailed to the individual. This subsection is inapplicable to a prosecution for failure to file a financial statement under this section if the person required to file opts to file by electronic transfer as provided in Section 572.030(d).

SECTION __. (a) Section 254.036, Election Code, as amended by this Act, applies only to a report required to be filed under Chapter 254, Election Code, on or after September 1, 2005. A report required to be filed under Chapter 254, Election Code, before September 1, 2005, is governed by the law in effect on the date the report was required to be filed, and the former law is continued in effect for that purpose.

(b) Sections 572.030 and 572.034, as amended by this Act, apply only to a report required to be filed under Subchapter B, Chapter 572, Election Code, on or after September 1, 2005. A report required to be filed under Subchapter B, Chapter 572, Election Code, before September 1, 2005, is governed by the law in effect on the date the report was required to be filed, and the former law is continued in effect for that purpose.

SECTION __. Section 305.027, Government Code, is amended by adding new Subsection (f) to read as follows:

(f) This section does not apply to either house of the legislature, a member of the legislature, the governor, or the lieutenant governor.

The amendment was read.

POINT OF ORDER

Senator Duncan raised a point of order that Floor Amendment No. 6 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Duncan withdrew the point of order.

Senator Wentworth withdrew Floor Amendment No. 6.

SENATOR ANNOUNCED PRESENT

Senator Janek, who had previously been recorded as "Absent-excused," was announced "Present."

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 12 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Eltife, Fraser.

**COMMITTEE SUBSTITUTE
SENATE BILL 12 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 12** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Eltife, Fraser.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 13, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 196, Recognizing Beverly Pevehouse of Midland for her contributions to her community.

SB 466, Relating to the creation and authority of municipal development districts.

SB 602, Relating to the development of bicycle tourism trails in this state.

SB 929, Relating to the service area of the Houston Community College System District.

SB 1199, Relating to the deposit of municipal sales and use taxes into a tax increment fund.

SB 1253, Relating to measures to support efforts of municipalities and counties to recruit or retain special events.

SB 1302, Relating to the Ector County Hospital District.

SB 1436, Relating to audits of emergency services districts.

SB 1447, Relating to including pension and other postemployment benefits in the computation of rates for electric utilities.

(Committee Substitute)

SB 1473, Relating to the provision of education and training programs for law enforcement officers regarding persons with mental impairments.
(Committee Substitute)

SB 1754, Relating to the Childress County Hospital District.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider the following bills today: **SB 1128**, **SB 1404**.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 885 by Barrientos, In memory of Refugio Esteban "Steve" Quintero of Austin.

SR 887 by Van de Putte, In memory of Dora Lawson of San Antonio.

SR 890 by Barrientos, In memory of Rudolph Cardenas, Sr., of Austin.

Congratulatory Resolutions

SR 884 by Barrientos, Recognizing Janet C. Pyle on the occasion of her retirement.

SR 886 by Brimer, Recognizing the Ambassadors of Christ Christian Center Ministries on the occasion of its 15th anniversary.

SR 888 by Barrientos, Recognizing the Science Olympiad team of Kealing Middle School in Austin for being named a National Qualifying team that will represent the State of Texas at the National Science Olympiad.

SR 889 by Barrientos, Recognizing the Science Olympiad team of Lyndon Baines Johnson High School in Austin for being named a National Qualifying team that will represent the State of Texas at the National Science Olympiad.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:08 p.m. adjourned, in memory of Johnnie Earline Brown of Austin, mother of Senate Messenger Diana Sue Brown, until 11:00 a.m. Monday, May 16, 2005.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 13, 2005

BUSINESS AND COMMERCE — CSHB 2438

CRIMINAL JUSTICE — HB 68, HB 291, HB 549, HB 706, HB 2275, HB 2885

JURISPRUDENCE — HB 248, HB 240, HB 252, HB 261, HB 410, HB 657, HB 788, HB 956, HB 1059, HB 1179, HB 1394, HB 1586, HB 1642, HB 2174, HB 2200, HB 3010, HB 3199, HB 3263, HB 3481, HB 3265

FINANCE — HB 3016

STATE AFFAIRS — CSSB 1150, CSSB 1691, HB 758, HB 1163, HB 1577, HB 2511, HB 2645

TRANSPORTATION AND HOMELAND SECURITY — CSHB 754, CSHB 160

NATURAL RESOURCES — HB 422, HB 841, HB 856, HB 1224, HB 1225, HB 2172, HB 2510, HB 2685, CSHB 2940

SENT TO GOVERNOR

May 13, 2005

SB 99, SB 272, SB 350, SB 454, SB 552, SB 1000, SB 1309, SB 1464, SB 1708

